

Remarks: Litigation, IDS

As noted previously, patents related to the present application are in litigation, namely U.S. Patent Nos. 6170014, 6282573, and 6606664. In particular, information provided to the undersigned by the patentee's litigators was made available to the Office, as part of an IDS filed 9/22/2009, including certain non-patent references. The Examiner has lined through the listing of non-patent references in that IDS, and returned the lined-through form with the present Office Action. The lined-through form states "NO DATES IN ALL REFERENCES /HH/", which the undersigned understands as meaning that publication dates should be stated in the form for all of the references for which no publication date was already stated.

Accordingly, an updated IDS form is filed with the present Amendment. The date listed on the updated form for reference 3 is based on the execution date of a USPTO-recorded assignment of rights in the FORUM® mark from CompuServe to AOL, and a presumption that after the assignment the owner of the mark would have been identified in the publication as AOL, rather than being identified as CompuServe. The date listed on the form for reference 6 is based on page 3 of that reference, which refers to a "new" David Bowie song that was released September 11, 1996. The dates listed for other references are based on dates given explicitly in the references.

The litigation is ongoing. Briefs pertaining to claim construction have been filed with the court. Information the Office may wish to receive pertaining to the litigation can be obtained by an Examiner's request under Rule 105.

Remarks: Prior Art Rejections

On the merits, the Office Action rejects the claims under section 103 in view of combinations which rely on Benson (US 6678665), stating that Benson teaches preventing saving content to a nonvolatile disk by disabling disk writes.

Regardless, Benson does not teach a distinction between a critical portion of the content, which is not saved to disk, and another portion of the content, which is saved to disk. Benson's approach is all-or-nothing: the protected program can either write to disk

or it cannot. The claimed invention, by contrast, is finer-grained: at least one critical portion is not written to disk, but the rest of the content can be written to disk. This distinction between a portion of content that cannot be saved to disk and another portion that can, does not appear to be taught by Benson or by Benson in combination with the other references. The cited language in Douglass (US 6587877) likewise appears to teach an all-or-nothing approach, in which a disk cache is completely disabled, forcing each request to be passed onward. The rejections should be withdrawn.

Conclusion

Assignee respectfully requests consideration of the references identified in the updated IDS, and allowance of the claims. Silence here does not indicate agreement or acquiescence with the assertions or arguments presented in the Office Action.

In the event of any questions, the undersigned invites a telephone call from the Office.

Dated March 30, 2010.

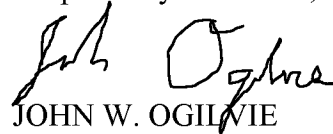
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CERTIFICATE OF TRANSMISSION

I hereby certify that this Amendment and updated IDS are being submitted to the Commissioner for Patents through EFS-WEB, on March 30, 2010.



Respectfully submitted,



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